

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

BIGFOOT VENTURES LLC,

Plaintiff,

v.

ILYA S. SAVENOK,

Defendant.

Civil Action No.: 18-cv-05340

**COMPLAINT FOR
DECLARATORY JUDGMENT**

Plaintiff, Bigfoot Ventures LLC (“Bigfoot” or “Plaintiff”), by and through its attorneys, Morton & Associates LLP, and as for its Complaint for Declaratory Judgment against Defendant Ilya S. Savenok (“Savenok” or “Defendant”) alleges, upon information and belief, as follows:

NATURE OF THE ACTION

1. This is an action under the Declaratory Judgment Act, 28 U.S.C. § 2201, *et seq.*, for a declaration that Plaintiff does infringe upon any of Defendant’s copyright-protected works, including those appearing on www.thecelebritycafe.com.

PARTIES

2. Bigfoot is a limited liability company, duly organized and existing under the laws of the State of New York, with a principal place of business in New York County.

3. Upon information and belief, Savenok is an individual domiciled at 417 Pulaski Street, Brooklyn, NY 11221.

JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction over the instant action pursuant to 28 U.S.C. §§ 1331, 1338. The claims alleged in this Complaint arise under the

Declaratory Judgment Act, 28 U.S.C. § 2201, *et seq.*, and the controversies to be resolved herein arise under the U.S. Copyright Act, 17 U.S.C. § 101, *et seq.*

5. This Court has personal jurisdiction over Savenok, pursuant to CPLR § 301, because Savenok is domiciled in the State of New York..
6. Venue is proper in this District pursuant to 28 U.S.C. §1391(b) because Savenok resides in Brooklyn.

STATEMENT OF FACTS

Plaintiff Receives a Cease and Desist Letter

7. On or around August 30, 2018, Plaintiff received a letter from Defendant's counsel, James H. Freeman, alleging that, as the purported owner of www.thecelebritycafe.com (the "Website"), on March 21, 2017, Bigfoot ran an article on the Website entitled 'Wyclef Jean', which prominently featured a photograph allegedly owned by Savenok. The cease and desist letter, dated August 27, 2018 (the "Letter") is annexed hereto as **Exhibit A**.
8. Mr. Freeman premised his allegations upon nothing more than his conclusory statement that 'it appears you operate the [Website]', without attaching a scintilla of evidence that supported the foregoing.
9. Defendant's counsel asserted that, as the owner of the www.thecelebritycafe.com, Bigfoot infringed upon his federally registered photograph of Wyclef Jean, a renowned musical artist, assigned Copyright Reg. No. VA 2-054-523 (the "Photograph"), by allegedly re-publishing the Photograph in an article without a license or authorization.

10. The Letter concluded with a demand that Bigfoot either produce evidence illustrating any license or authority to re-publish the Photograph on the Website within 14 days calendar days or contact the undersigned to arrange for a licensing fee.
11. When Plaintiff did not respond to the Letter or the allegations contained therein, on September 19, 2018, another counsel for Defendant, Richard Liebowitz, e-mailed Bigfoot's undersigned counsel regarding copyright infringement on the Celebrity Café Website. The e-mail also attached a draft of a complaint entitled *Savenok v. Bigfoot Ventures LLC*, which had not yet been filed but which Mr. Liebowitz wanted to discuss. The September 19, 2018 e-mail is annexed hereto as **Exhibit B**.

Plaintiff Does Not Own or Operate the www.thecelebritycafe.com Website

12. Plaintiff did not respond to Defendant's Letter or subsequent e-mail for a reason, and that is the fact that it does not own or operate the Website.
13. According to comprehensive WHOIS records, the Website is owned by The Celebrity Cafe Limited, an entity incorporated in the United Kingdom, with a registered office address in Manchester, United Kingdom.
14. Bigfoot, itself a New York entity, and The Celebrity Cafe Limited are not in a partnership, joint venture or otherwise affiliated.
15. Bigfoot is in no way responsible or liable for the conduct of the entity The Celebrity Cafe Limited, the Website or any content that appears on it.
16. By virtue of the foregoing, Plaintiff is compelled to seek a declaration from this Court that he has not infringed upon Defendant's intellectual property as alleged in the Letter.

CLAIM FOR RELIEF

Declaratory Judgment of No Copyright Infringement

17. Plaintiff hereby repeats each and every allegation set forth in the preceding paragraphs of this Complaint as if fully set forth herein.
18. Defendant alleges that, as the owner and operator of the Website, Plaintiff is infringing upon its copyright-protected works appearing on its www.thecelebritycafe.com website.
19. An actual, present and justiciable controversy exists between Plaintiff and Defendant concerning whether or not Plaintiff is infringing upon Defendant's copyright-protected material.
20. Plaintiff seeks a Declaratory Judgment from this Court that, because Bigfoot is not affiliated with the Website, it does not have any control over, and is not responsible for, any of the infringing material that the Website purportedly features.

WHEREFORE, based on the foregoing, Plaintiff demands judgment against Defendant as follows:

- i. A declaration that Plaintiff does not infringe upon any of Defendant's copyright-protected works, including those appearing on www.thecelebritycafe.com.
- ii. Attorneys' fees and the costs and disbursements of this action.
- iii. Such other and further relief that this Court deems just and proper.

JURY DEMAND

Plaintiff respectfully requests a trial by jury as to all issues.

Dated: New York, New York
September 21, 2018

Morton & Associates LLP

By: 
Roman A. Popov, Esq. (RP7625)
Attorney for Plaintiff
246 West Broadway
New York, NY 10013
Tel: (212) 468-5511
Fax: (212) 508-0888
rp@moas.com

EXHIBIT A



11 SUNRISE PLAZA, STE. 305
VALLEY STREAM, NY 11580
(516) 233-1660
WWW.LIEBOWITZLAWFIRM.COM

August 27, 2018

VIA U.S. MAIL

BIGFOOT VENTURES LLC
246 W BROADWAY
NEW YORK, NY 10013

Re: Savenok v. Bigfoot Ventures, LLC Case # 233-06

Dear Bigfoot Ventures, LLC,

This law firm represents Ilya S. Savenok, who is the author and owner of all right, title and interest in and to a photograph of rapper Wyclef Jean. The Photograph was registered with the U.S. Copyright Office and was given Copyright Registration Number VA 2-054-523 effective as of May 3, 2017. A true and correct copy of the Certificate is attached hereto as Exhibit A.

It appears you operate the website at <https://thecelebritycafe.com/2017/03/wyclef-jean-handcuffed-detained-police-mistaken-identity/0-1426/>. On March 21, 2017, you ran an article on your Website entitled "*Wyclef Jean*". See <https://thecelebritycafe.com/2017/03/wyclef-jean-handcuffed-detained-police-mistaken-identity/0-1426/>. Your Article prominently features the Photograph. Screenshots of the Article as it appears on your Website are attached hereto as Exhibit B.

We do not have a record of any license or authorization you may have obtained for re-publication of the Photograph on your website. If you are currently in possession of a license, which pre-dates the posting of the Photograph to your website, please forward supporting documentation to this law firm's attention within fourteen (14) calendar days of the date of this letter. You can mail a copy of the license to the address listed on the top of the page or e-mail us directly at jf@liebowitzlawfirm.com.

In the event you do not respond within the time indicated, we will seek the necessary remedies to enforce our client's rights under U.S. Copyright Law, which may include the filing of a copyright infringement action against you. If you do not have license, and wish to negotiate a proper licensing fee, please contact us immediately to resolve the issue.

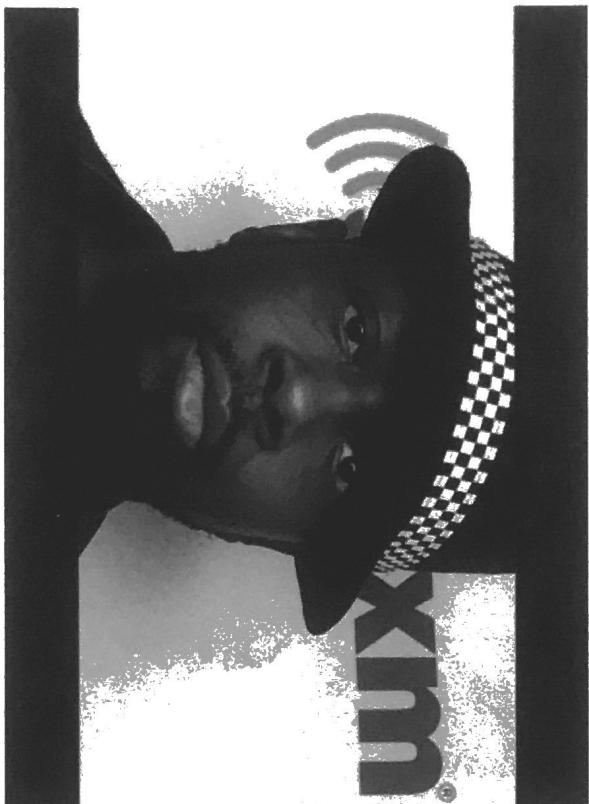
Very Truly Yours,

James H. Freeman



● ● ● ☰ Wyndle Jean - TheCelebrityCafe.com
C ☰ thecelebritycafe.com/2017/03/wyclef-jean-handcuffed-detained-police-mistaken-identity/0-1426/

☆ □ ○ ◆ ■



Wyclef Jean

MARCH 21 2017 by

ENTER THE COMMENTS CONTEST AND WIN 20 BUCKS CASH
ENTER TODAY *

Q.★celebritycafe'

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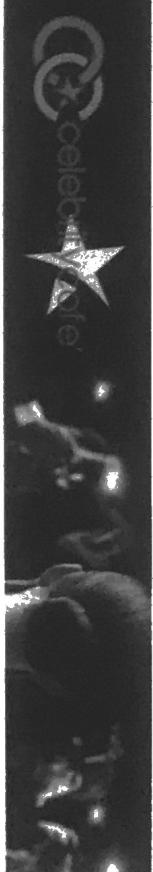


EXHIBIT B



Roman Popov (Morton Associates) <rp@moas.com>

Savenok v. BigFoot Ventures LLC

Richard Liebowitz <RL@liebowitzlawfirm.com>
To: rp@moas.com
Cc: Joe Dunne <jd@liebowitzlawfirm.com>

Wed, Sep 19, 2018 at 10:19 PM

Dear Roman,

We represent Ilya Savenok. I see you have represented BigFoot in past cases. I wanted to reach out to your regarding a copyright infringement on The Celebrity Cafe website. See the attached Draft Complaint. We have sent a cease and desist letter to your client who has not responded. Please let me know if you are representing them and are available to discuss.

Thank you.

Best,

Richard Liebowitz, Esq.
Liebowitz Law Firm, PLLC
t.516-233-1660

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4 attachments

- Ilya S. Savenok v BigFoot Ventures LLC Complaint DC.pdf**
102K
- Ilya S. Savenok v BigFoot Ventures LLC ex A.pdf**
66K
- Ilya S. Savenok v BigFoot Ventures LLC ex B.pdf**
451K
- Ilya S. Savenok v BigFoot Ventures LLC ex C (1).pdf**
400K